



LODI CITY COUNCIL

Carnegie Forum

305 West Pine Street, Lodi

AGENDA - SPECIAL MEETING

Date: May 18, 2004

Time: 7:00 a.m.

For information regarding this agenda please contact:

Susan J. Blackston

City Clerk

Telephone: (209) 333-6702

NOTE: All staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the Office of the City Clerk and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the City Clerk's Office as soon as possible and at least 24 hours prior to the meeting date.

A. Roll call

B. Regular Calendar

- B-1 Approve Special Allocation for expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation (\$313,529.16) (CA)

C. Closed Session

- a) Actual Litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- b) Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- c) Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); two cases
- d) Conference with legal counsel – anticipated litigation – significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; one case; pursuant to Government Code §54956.9(b)(3)(A) facts, due to not being known to potential plaintiffs, shall not be disclosed
- e) Actual Litigation: Government Code §54956.9(a); one case; City of Lodi, a California Municipal Corporation, and Lodi Financing Corporation, a California nonprofit corporation v. Lehman Brothers, Inc. and US Bank National Association, United States District Court, Eastern District of California, Case No. CIV. S-04-0606 MCE-KJM
- f) Public Employment: Government Code §54957 – to consider the appointment or employment of an independent contractor serving in the capacity of a public officer or employee

D. Return to Open Session / Disclosure of Action

E. Adjournment

Pursuant to Section 54956.2(a) of the Government Code of the State of California, this agenda was posted at a place freely accessible to the public 24 hours in advance of the scheduled meeting.

Susan J. Blackston, City Clerk

****NOTICE:** Pursuant to Government Code §54954.3(a), public comments may be directed to the legislative body concerning any item contained on the agenda for this meeting before (in the case of a Closed Session item) or during consideration of the item.**



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Approval of Special Allocation for Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation (\$313,529.16)

MEETING DATE: May 18, 2004 Special City Council Meeting

PREPARED BY: Steve Schwabauer, Interim City Attorney

RECOMMENDED ACTION: That the City Council approve a Special Allocation for expenses incurred by outside counsel/consultants relative to the environmental Abatement Program litigation in the amount of \$313,529.16.

BACKGROUND INFORMATION: Over the past three months, the City hired Barger & Wolen to begin the review of the Envision Law Group invoices, and assist the Mayor and the Interim City Attorney with the various aspects of the Lehman Financing. The City Council also hired the law firm of Kronick, Moskovitz, Tiedemann & Girard to assist with the ongoing Environmental Abatement litigation and other miscellaneous litigation cases that are presently active and perform some of the duties of the Deputy City Attorney as required. The City also hired Treadwell & Rollo to perform environmental consulting services, first as the mediators consultant and later as the City's consultant.

The following is a list of invoices that are currently outstanding and need to be approved for payment.

- 1) **Barger & Wolen**
 Invoice #200028.25 for Professional Services for the Period March 1-March 31, 2004 \$ 92,562.25
(- 28,345.50) Audit Expenses

Total Due This Invoice **\$ 64,216.75**

 Invoice #198068.25 for Professional Services for the Period February 2-February 29, 2004 \$ 79,766.76
(- 13,514.00) Audit Expenses

Total Due This Invoice **\$ 66,252.76**

- 2) **Treadwell & Rollo**
 Invoice #0099687 for Professional Services for the Period February 21-March 26, 2004 performed for Lester Levy/JAMS **\$ 37,526.50**

- 3) **Kronick, Moskovitz, Tiedemann & Girard**
 Invoice #213150 for Professional Services for the Period March 1-March 25, 2004 **\$ 91,609.68**

APPROVED: _____
 H. Dixon Flynn, City Manager

Invoice #213605 for Professional Services for the
Period March 4-April 25, 2004

\$ 53,509.47

4) **Downey Brand** (Mediation Session Lunches – City ½ Cost

\$ 414.00

Total

\$313,529.16

FUNDING: Water Fund 183453.7323
City Attorney 100351.7323

Stephen Schwabauer
Interim City Attorney

Approved:

Ruby Paiste, Interim Finance Director